

Remarks

Prior to entry of this amendment, the application included claims 9-14, 24-27 and 29. Claims 9, 24, and 29 have been amended. No claims have been added or canceled. Hence, after entry of this amendment, claims 9-14, 24-27 and 29 stand pending for examination.

This amendment is in response to the Final Office Action of June 16, 2009. Claims 9-10, 12, 24-25, 27 and 29 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over U.S. Patent Application Publication No. 2003/0225708 ("Park") in view of U.S. Patent No. 5,878,141 ("Daly"). Claim 11 stands rejected as obvious over Park in view of Daly, and in further view of Official Notice. Claims 13 and 14 stand rejected as obvious over Park, in view of Daly, and in further view of U.S. Patent No. 6,957,770 ("Robinson").

Support for the Amendments

Claims 9, 24, and 29 have been amended. No new matter has been added to the application through the amendments. Support for the amendments may be found throughout the application. For example, support may be found in paragraph 271.

§103 Rejections

The independent claims, claims 9, 24, and 29, stand rejected as obvious over Park in view of Daly. Without acquiescing to the propriety of the rejections, the independent claims have been amended to expedite prosecution. Claim 9 has been amended to recite, *inter alia*: "in response to receiving a request to authorize a check, calculating a risk score, the risk score at least partially based on the associated check issuer's location stored in the repository of records and the check-cashing entity's location." The remaining independent claims contain similar amendments. The cited references do not teach, suggest, or otherwise prove obvious the amended independent claims.

Park, the primary reference, is directed to "producing and presenting negotiable instruments and . . . printing and presenting checks which are resistant to forgery or fraud." *Park*, Abstract. The Office Action explicitly acknowledges that "Park does not specifically teach

the check authorization system identifying *check issuers in a desired geographic location*, and the record related to the check comprising *a check issuer name and associated check issuer's location*,” *Office Action*, p. 4, emphasis maintained. In order to cure this deficiency, the Office Action introduces the Daly reference.

Daly is generally directed to “[a] computerized, electronic purchase mediating system [that] includes a purchaser database having a list of purchasers and a merchant database having a list of merchants.” *Daly*, Abstract. The Office Action cites to Daly for the entirely conventional proposition of a store restricting purchases by check to only local checks: “The department store, on the other hand, might only accept a few of these forms of payment, such as cash, *local checks* . . . , while not accepting other forms of payment.” *Daly*, col. 1, ll. 34-37, emphasis added. The Office Action interprets the department’s store acceptance of only local checks as making obvious identifying check issuers in particular geographic areas. *Office Action*, p. 4.

As amended, the independent claims require a risk score be calculated that is at least partially based on the location of the check issuer and the location of the check-cashing entity. Clearly, a department store only accepting local checks does not teach, suggest, or otherwise prove obvious such recitations. If a department store only accepts local checks, no score is computed: the store either accepts or does not accept the check. Rather, the independent claims involve a calculation involving both the location where the check is issued from and the location where the check is cashed.

For at least these reasons, amended claims 9, 24, and 29 are not taught, suggested, or otherwise proved obvious by the cited references. Therefore, *prima facie* cases of obviousness are not present. Accordingly, Applicant respectfully requests withdrawal of the §103 rejections of claims 9, 24, and 29. Further, claims 10-14 and 25-27 depend, either directly or indirectly, from claims 9, 24, and 29. At least by virtue of their dependence on non-obvious claims, claims 10-14 and 25-27 are likewise non-obvious. Accordingly, Applicant also respectfully requests withdrawal of the §103 rejections of claims 10-14 and 25-27.

Non-functional Descriptive Material

Claim 9 recites: “the check authorization system obtaining, from two or more check issuers, identifiers for checking account associated with the two or more check issuers” The Office Action alleges that such identifiers are “non-functional descriptive material and bear no patentable weight – see MPEP 2106.01 and 2106.02.” *Office Action*, pp. 3, 4. Claim 9 has been amended to clearly recite that the identifiers are stored on “a computer-accessible storage medium.”

MPEP §2106.01 states that:

When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.

The identifier of claim 9, at least because it is stored on a “computer-accessible storage medium,” is structurally and functionally interrelated to the medium, and is therefore statutory.

Traversal of Office Notice

Applicant respectfully traverses the Office Action’s application of Official Notice to claim 11. Claim 11 recites that “identifying check issuers in a desired geographical location further comprises identifying check issuers within a desired region defined by at least one of the set consisting of: zip code, city, county, state, telephone area code, and Metropolitan Statistical Area (MSA).” The Office Action states that it “is common knowledge that a desired region can be defined in such a manner. For example, a merchant accept [sic] local checks, where the local checks mean the in-state checks only.” *Office Action*, p. 5.

The MPEP sets a strict standard as for when Official Notice is appropriate in rejecting a claim. “Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of *instant and unquestionable demonstration* as to defy dispute.” *MPEP* § 2144.03(A), emphasis added. “The Board cannot simply reach conclusions based on its own understanding or experience – or on its assessment of what would be basic knowledge or

common sense. Rather, the Board must point to some concrete evidence in the record in support of these findings." *Id.*

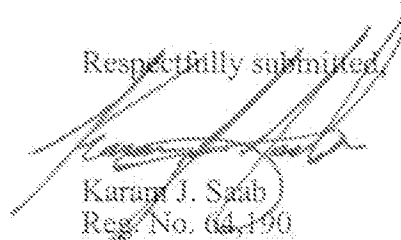
The Office Action's example of a geographic region (a merchant only accepting local checks) does not back the Examiner's assertion that using defined geographic areas in a "check authorization system" is common knowledge. While a merchant may or may not accept local checks, there is nothing in claim 11 asserting that the geographic area is local to the check authorization system. Rather, no limitation is placed on the location of the geographic area to be investigated.

Accordingly, Applicant respectfully requests withdrawal of the use of Official Notice. If the rejection is to be maintained, documentary evidence is respectfully requested to support the Office Action's assertion of the obviousness of claim 11.

Conclusion

In view of the foregoing, Applicant believes all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested. Further, the Commissioner is hereby authorized to charge any additional fees or credit any overpayment in connection with this paper to Deposit Account No. 20-1430. If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,



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